

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

MARK WHITEBREAD	:	4:06-CV-2404
	:	
Plaintiff,	:	(Judge McClure)
	:	
v.	:	
	:	
EUGENE BREDANIER, et al.	:	
	:	
Defendants.	:	

ORDER

May 22, 2007

BACKGROUND:

The plaintiff is a pro se prisoner who commenced this 42 U.S.C. § 1983 action on December 15, 2006. The matter was initially referred to United States Magistrate Judge J. Andrew Smyser. On January 25, 2007, the defendants filed a motion to dismiss and/or for summary judgment with an accompanying brief. After the plaintiff missed the deadline for filing a responsive brief as required by Local Rule 7.6, the magistrate judge ordered plaintiff to file a responsive brief by March 26, 2007. The order - dated March 6, 2007 - specifically warned plaintiff that failure to file a responsive brief may result in a recommendation that the matter be dismissed pursuant to Federal Rule of Civil Procedure 41(b).

Plaintiff failed to comply with the magistrate judge's March 6th order and as of today has still not filed a responsive brief. On April 30, 2007, the magistrate judge issued his five page report and recommendation and recommended that the court dismiss plaintiff's complaint pursuant to Rule 41(b) for failure to obey Local Rule 7.6 and the March 6th order. Plaintiff has not filed objections to this report and recommendation.

DISCUSSION:

A district court reviews de novo those portions of a magistrate judge's report and recommendation to which a party objects. L.R. 72.3. The court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." Id.

We will adopt the magistrate judge's report in full and dismiss plaintiff's action. Federal Rule of Civil Procedure 41(b) allows for dismissal of an action where the plaintiff fails to prosecute his claim and/or fails to comply with a court order. See also Mackey v. Smith, 2006 WL 680847, at *1 (M.D. Pa. 2006) (unpublished). Here, plaintiff has failed to comply with the magistrate judge's March 6th order requesting the plaintiff comply with Local Rule 7.6 and file a responsive brief. Therefore, we will dismiss this matter pursuant to Rule 41(b).

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. United States Magistrate Judge J. Andrew Smyser's Report and Recommendation is adopted in full. (Rec. Doc. No. 21).
2. Plaintiff's complaint is dismissed pursuant to Federal Rule of Civil Procedure 41(b) for failure to prosecute and for failure to comply with a court order. (Rec. Doc. No. 1).
3. The clerk is directed to close the case file.
4. Any appeal from this order is not taken in good faith.

s/ James F. McClure, Jr.
James F. McClure, Jr.
United States District Judge